

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MASSACHUSETTS
3 NO. 03 CV 12307 RGS

JOSEPH CHRISTOFORO,
Plaintiff

-VS-

JULIO LUPO, FRANK G. COUSINS,
JR., INDIVIDUALLY AND IN HIS
CAPACITY AS ESSEX COUNTY SHERIFF,
and CERTAIN UNKNOWN INDIVIDUALS,
Defendants

DEPOSITION OF JOSEPH CHRISTOFORO
Volume II

Deposition taken at the law offices
of Merrick, Louison & Costello, 67 Batterymarch
Street, Boston, Massachusetts, on Thursday,
May 19, 2005, commencing at 10:20 a.m.

DUNN & GOUDREAU COURT REPORTING SERVICE, INC.
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For the Defendant Julio Lupo:

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For the Defendant Frank Cousins:

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Court Reporter: Anne F. Penn, C.S.R., R.P.R.

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APPEARANCES:

1 P-R-O-C-E-E-D-I-N-G-S
2 JOSEPH CHRISTOFORO

having been previously duly sworn, was deposed and testified as follows:

E-X-A-M-I-N-A-T-I-O-N

BY MR. HODAPP:

This is the resumption of a deposition begun on Monday, May 16th. Good morning, Mr. Christoforo. Good morning. Could you please describe the events of December 23, 2002.

Sure. I went to work that morning as, you know, and I had a different job that morning. And I was performing my work detail. Would you like me to start in the morning?

Please.

And while I was performing one of my new duties for that morning, Julio had come into work, was talking to big Paul -- I don't know his last name -- about something. I didn't hear what they were talking about; but he did glance over and look at me after they had finished their conversation.

And when they were done, I was still doing my

1 work. We were on a serving line preparing the
 2 food for the inmates. And there is
 3 approximately -- there is at that time I believe
 4 there's nine people on the line. I was sitting
 5 on -- say this is the table where the food is
 6 coming down, I was sitting here, there was a
 7 gentleman to my left, a gentleman to my right.
 8 And we were talking and doing our job.

9 And then the kid across -- there was a
 10 gentleman across from me, which I don't recall his
 11 name, but he was wondering why he couldn't take a
 12 cooking job in place of my job, which I was
 13 cooking. I was the head cook at the time but not
 14 at this point. I talked to Paul, and he had given
 15 me a new position.

16 And the kid was talking to the group of us
 17 wondering why he couldn't have a new job. And he
 18 was saying something like he thought he might not
 19 be able to get the job because a racial thing
 20 because he was black or something. He was
 21 wondering why they weren't allowing him to do
 22 something better than he was doing.

23 Julio was in the background, he yelled out why
 24 don't you keep your mouth shut, not talking to

1 work and keep your mouth shut; and that's -- he
 2 punched me in the side of the head thinking I had
 3 said something about a melongena or he heard that
 4 word and punched me in the back of the head.

5 Q You say that Julio thought that you had said --
 6 A I don't know.

7 Q -- to Smith --

8 A He heard --

9 Q Please, please. You said that Julio thought you
 10 were the one who told Smith what a melongena is,
 11 what do you base that on?

12 A I don't base it on anything. What I said is he
 13 heard someone say it and he -- well, he just heard
 14 someone say it, he came over, was standing behind
 15 me; and that's when he whacked me in the back of
 16 the head.

17 Q How do you know he heard someone say it?

18 A Because he told us to shut the fuck up and get
 19 back to work.

20 Q Did he use the word "melongena"?

21 A Did he say that?

22 Q When he came back to you, did he use the word
 23 "melongena"?

24 A No, no.

1 anyone in particular, I can hear you all the way
 2 back here he stated. So he wasn't talking to me
 3 or anybody else, he yelled that out. I guess he
 4 might have heard the gentleman talking, he heard
 5 the gentleman talking; so we continued to put the
 6 food on the trays.

7 I think on that day I was putting Granola bars
 8 on the tray. And he had come over, and he had put
 9 his arm on my shoulder and said, again, you know,
 10 I want you guys to keep your mouths shut down
 11 here, you know, I can hear you all the way around
 12 there across the way.

13 And I believe he called the gentleman
 14 across -- he called the gentleman across a
 15 melongena he had said, so I believe Mr. Roberts
 16 was his last name, I forgot his first name though;
 17 and he walked away.

18 One of the kids had asked and I believe I had
 19 asked at the time what is a melongena. I didn't
 20 know what it meant. And Ralph Sordillo had
 21 mentioned a melongena is an eggplant, being slang.
 22 I didn't know what that meant.

23 At that point Julio come back, put -- he
 24 stepped behind me and had said get back to fucking

1 Q How do you know he heard someone use the word
 2 "melongena"?

3 A I don't know.

4 Q What happened after that?

5 A Well, after he punched me in the side of the head,
 6 he turned and told us to get the fuck back to work
 7 and walked away.

8 Q Okay. Let's stop there if we may. When was the
 9 first time you saw Julio Lupo on the day of the
 10 incident?

11 A When he came into work.

12 Q What time was that?

13 A Seven o'clock.

14 Q What time did you start work that day?

15 A 4:30 in the morning, five o'clock.

16 Q You mentioned a change of job description.

17 A Yes, sir.

18 Q You began a new job that day?

19 A Yes, sir.

20 Q And how did that come about that you were moved to
 21 a new job on the day of this incident?

22 A I asked Paul if I could have a job change because
 23 I was being badgered and then insulted and then
 24 mentally and physically abused by Julio in the